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10/090,647	03/04/2002	James E. McGwin JR.	2691-001	6097
22208 7590 11/28/2008 ROBERTS, MARDULA & WERTHEIM, LLC 11800 SUNRISE VALLEY DRIVE SUITE 1000 RESTON, VA 20191				
EXAMINER				
OUELLETTE, JONATHAN P				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/090,647

Applicant(s)

MCGWIN, JAMES E.

Examiner

Jonathan Ouellette

Art Unit

3629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 August 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/CDC)
- Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. Claims 1 and 3-15 are currently pending in application 10/090,647.

Claim Rejections - 35 USC § 112

2. The rejection of Claims 1 and 7 under 35 U.S.C. 112, first paragraph, is withdrawn due to Applicant's arguments.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
4. **Claims 1, 3-5, 7-10, and 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arunapuram et al. (US 2002/0019759 A1).**
5. As per **independent Claims 1 and 7**, Arunapuram discloses a method for using process exceptions to provide instant notifications for distributed processes (Fig.4; Para 0046-0048, status messages, alarms), comprising: identifying a process; determining a location of a critical point in the process; determining an information source at the critical point in the process (steps all inherently necessary to create method/system disclosed by Arunapuram);

monitoring stimulus from the information source (Fig.4; Para 0046-0048, status interface receives status messages); processing said stimulus to detect at least one process exception (Para 0048, status interface generates alarms based on expected early or late arrival messages); communicating the process exception to a messaging controller over a communication mechanism (Fig.4, Para 0046-0048, Shipment Status Interface electronically communicates with Customer Status Interface as part of the execution module); processing the process exception at the messaging controller to determine a recipient to receive a notification and any associated contextual information (Para 0048, system determines transportation manager, sales office or customer related to shipment, before sending message/alert); and communicating the notification and the associated contextual information to the recipient (Para 0048, message/alert sent).

6. Arunapuram fails to expressly disclose wherein if the communication of the process exception to the messaging controller is not acknowledged, communicating the process exception to the messaging controller over an alternative communication mechanism.
7. However, Arunapuram discloses a Shipment Status Interface, which electronically communicates status/alert information with the Customer Status Interface as part of the Execution Module (Fig.4, Para 0046-0048). Furthermore, Arunapuram discloses the ability of the system to communicate internally and externally using several forms of communication, such as EDI, email, web, facsimile, or phone (Para 0044-0046).
8. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used all available communication methods as back-ups or alternatives if one of the methods was not functioning correctly (network down, power

outage, computer down), in order to efficiently and effectively ensure delivery of an important status/alert message to the customer.

9. Furthermore, Arunapuram fails to expressly disclose wherein monitoring stimulus from the information source and communicating the process exception are accomplished independent of local communication and information systems infrastructures.
10. However Arunapuram does disclose monitoring stimulus from the information source and communicating the process exception (Para 0034, Fig.3-5, stimulus/status communication handled by separate electronic manager), and Arunapuram further discloses the use of several different communication methods to include EDI, the web/Internet (disclosed by Applicant as communication mechanism independent of local communication and systems infrastructures – Claim 9 of instant invention), email, phone, or fax (Para 0044); therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a plurality of communication types/techniques (independent and dependent), in order to increase the monitoring system's dependability, by providing a communication link that would be secure and consistent. (See KSR [127 S Ct. at 1739] "The combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results.").
11. As per Claims 3 and 8, Arunapuram discloses wherein identifying a process comprises identifying a supply chain process (shipping is a supply chain process).
12. As per Claims 4 and 9, Arunapuram discloses providing a local warning of the process exception at the location of the critical point in the process (Para 0048, alarm).

13. As per Claims 5 and 10, Arunapuram fails to expressly disclose selecting the communication mechanism and alternate communication mechanism from the group consisting of a local area network, Internet, modem, mobile phone, satellite, and page.
14. However, as stated for independent claims 1 and 7, Arunapuram discloses the use of several different communication methods to include EDI, the *web*/Internet, email, phone, or fax (Para 0044); therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to use a plurality of well known communication types/techniques, in order to increase the monitoring system's dependability, by providing a communication link that would be secure and consistent.
15. As per Claims 12 and 14, Arunapuram fails to expressly disclose wherein the process is a supply chain process and the information source is selected from the group consisting of production equipment, environmental sensors, metrology equipment, quality equipment, applications, databases, and news feeds.
16. However these differences are only found in the nonfunctional descriptive data and are not functionally involved in the steps recited. The instant notification system would be performed regardless of the information source. Thus, this descriptive data will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).
17. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have obtained information from multiple sources, to include: production equipment, environmental sensors, metrology equipment, quality equipment,

applications, databases, and news feeds, because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

18. As per new Claims 13 and 15, Arunapuram discloses wherein the process is a supply chain process selected from the group consisting of a manufacturing process, a marketing process, and accounting process, a tax process, a personnel process, a design process, an engineering process, a regulatory process, a quality process, and an environmental variable that impacts quality of a process.
19. However these differences are only found in the nonfunctional descriptive data and are not functionally involved in the steps recited. The instant notification system would be performed regardless of the type of business process monitored. Thus, this descriptive data will not distinguish the claimed invention from the prior art in terms of patentability, *see In re Gulack*, 703 F.2d 1381, 1385, 217 USPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ2d 1031 (Fed. Cir. 1994).
20. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have monitored a variety of businesses processes to include: a manufacturing process, a marketing process, and accounting process, a tax process, a personnel process, a design process, an engineering process, a regulatory process, a quality process, and an environmental variable that impacts quality of a process, because such data does not functionally relate to the steps in the method claimed and because the subjective interpretation of the data does not patentably distinguish the claimed invention.

21. Claims 6 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Arunapuram in view of Delaney et al. (US 6,842,772 B1).

22. As per Claims 6 and 11, Arunapuram discloses a Shipment Status Interface, which electronically communicates status/alert information with the Customer Status Interface as part of the Execution Module (Fig.4, Para 0046-0048). Furthermore, Arunapuram discloses the ability of the system to communicate internally and externally using several forms of communication, such as EDI, email, web, facsimile, or phone (Para 0044-0046); however Arunapuram fails to expressly disclose wherein communicating the notification and the associated contextual information to the recipient further comprises as escalation process if the notification is not acknowledged, wherein the escalation process is selected from the group of communication the notification to the recipient over another communication means and communicating the notification to an alternate recipient.

23. However, Delaney discloses a notification communication system which escalates messages based on response to the first message (C1-C2).

24. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included wherein communicating the notification and the associated contextual information to the recipient further comprises as escalation process if the notification is not acknowledged, wherein the escalation process is selected from the group of communication the notification to the recipient over another communication means and communicating the notification to an alternate recipient, as disclosed by Delaney in the system disclosed by Arunapuram, for the advantage of providing a method of providing process exception communication with the ability to increase system effectiveness and

efficiency by ensuring the user receives the necessary messages (See KSR [127 S Ct. at 1739] “The combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results.”).

Response to Arguments

25. Applicant's arguments filed 8/14/2008, with respect to Claims 1 and 3-15, have been considered but are moot in view of the new ground(s)/basis of rejection.

Conclusion

26. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan Ouellette whose telephone number is (571) 272-6807. The examiner can normally be reached on Monday through Thursday, 8am - 5:00pm.
27. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-6812. The fax phone numbers for the organization where this application or proceeding is assigned (571) 273-8300 for all official communications.
28. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Office of Initial Patent Examination whose telephone number is (703) 308-1202.

November 28, 2008

/Jonathan Ouellette/

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Primary Examiner, Art Unit 3629